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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,647	07/13/2001	Peter J. Welter	60170-300301	2687
7590	06/20/2005			EXAMINER
PAUL HICKMAN PATENT ATTORNEY PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026-2168			HARRELL, ROBERT B	
			ART UNIT	PAPER NUMBER
			2142	
DATE MAILED: 06/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
	09/905,647 WELTER ET AL.
Examiner	Art Unit
	Robert B. Harrell 2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 February 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 31-56,59-70 and 72-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 31-56,59-70 and 72-77 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 February 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
6) <input checked="" type="checkbox"/> Other: <u>see attached Office Action</u> . |
|--|---|

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1. Claims 31-56, 59-70, and 72-77 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks ™, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
4. Use of active hyperlink and/or other forms of browser executable code is improper (see MPEP 608.01) and must be removed (see page 13 [0033 (line 8)] as one example, all others must also be removed). It has been observed that United States Patents outlive Web Pages and/or the URL address for a Web Page (i.e., the page is moved).
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

6. Claims 31-56, 59-70, and 72-77 are rejected under 35 U.S.C. 102 (e) as being anticipated by Dantressangle (US 6,446,120 B1).
7. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

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8. The rejection, and grounds for rejection, under 35 U.S.C. 102(e) as presented in examiner's prior Office Action, are hereby maintained and incorporated in this Office Action by reference.

9. The applicant argued in his 28 February 2005 response by stating in substance that:

- a) the applicants respectfully assert that Dantressangle fails to teach or suggest sending formatted information to a web browser, wherein said formatted information is used for entry of information pertaining to a web site that is to be tested by said web transaction test as claimed. However, figure 8 and/or 9 shows a Web Browser (i.e., Netscape as anticipated by "N" in near the top right hand corner) with formatted information (800, 802, 804, 806, 808, 810, 812, 816), wherein the formatted information was used for entry of information pertaining to a web site that was to be tested (802) by the web transaction test to the extent claimed;
- b) the applicants respectfully assert that Dantressangle fails to teach or suggest developing a test configuration file for testing said web site from said formatted message as claimed. Dantressangle teaches a user generating a test guide file that contains instructions for testing a web server (col. 5, lines 66-67). Dantressangle description of a user generating a test guide file does not teach or suggest the claimed limitations, developing a test configuration file for testing said web site from said formatted message. However, such was covered in conjunction with col. 10 (line 36-et seq.) and col. 7 (line 31-et seq.) to the extent claimed;
- c) the applicants respectfully assert that Dantressangle fails to teach or suggest sending formatted information to a web browser, wherein said formatted information is based on a layout of a web site that is to be tested by said web transaction test as claimed. In contrast, Dantressangle is concerned with testing of web users. However, per the Abstract, figure 7 and col. 7 (line 36-et seq.), in order to formulate the test configuration file, the user must specify what is to be test (i.e., URLs, buttons, exc...) per col. 1 (lines 56-60) and col. 2 (lines 2-4)) to the extent claimed;
- d) the applicants respectfully assert that Dantressangle fails to teach or suggest automatically developing a test configuration file from said formatted message, said test configuration file for testing said web site as claimed. Dantressangle teaches a user generating a test guide file that containing instructions for testing a web server (col. 5, lines 66-67); and, that Dantressangle's description of a user generating a test guide file does not teach or suggest the claimed limitations of automatically developing a test configuration file from said formatted message, said test configuration file for testing said web site. However, per figures 7-9, Abstract, col. 1 (lines 56-60), col. 2 (lines 2-4), and col. 7 (line 36-et seq.), once the user has entered the required data the appropriate sequence of instructions were generated to test the web server to the extent claimed;
- e) the applicants respectfully assert that Dantressangle fails to teach or suggest said primary list of available alternatives and said secondary list of available alternatives are influenced by information contained on a web site that is to be tested by said web transaction test as claimed. In contrast, Dantressangle is concerned with testing of web servers. However, figure 8 (802 and/or 804) showed a primary and a secondary set of available alternatives to the extent claimed;
- f) the applicants respectfully assert that Dantressangle fails to teach or suggest the claim limitations; and that Dantressangle teaches a user generating a test guide file that contains instructions for testing a web server (col. 5, lines 66- 67); and, that Dantressangle's description of a user generating a test guide file does not teach or suggest the claim limitations of

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automatically developing a test configuration file from said formatted message, wherein said test configuration file comprises an automatic scheduling for testing the web site that is to be tested by said web transaction test. However, as indicated in figure 7 and col. 8 (line 41-et seq.), but more specifically, once the required information is entered by the computer the test is automatically performed from that point on to the extent claimed;

g) the applicants respectfully assert that Dantressangle fails to teach or suggest a computer operable to develop said test configuration file for performing said web transaction test for testing said web site from said formatted message as claimed. Dantressangle teaches a user generating a test guide file that contains instructions for testing; a web server (col. 5, lines 66-67); and that, Dantressangle's description of a user generating a test guide file does not teach or suggest the claim limitations of a computer operable to develop said test configuration file for performing said web transaction test for testing said web site from said formatted message. However, figure 8 and/or 9 shows a Web Browser (i.e., Netscape as anticipated by "N" in near the top right hand corner) with formatted information (800, 802, 804, 806, 808, 810, 812, 816), wherein the formatted information was used for entry of information pertaining to a web site that was to be tested (802) by the web transaction test as covered in conjunction with col. 10 (line 36-et seq.) and col. 7 (line 31-et seq.) and per the Abstract, figure 7 and col. 7 (line 36-et seq.). That is, in order to formulate the test configuration file, the user must specify what is to be test (i.e., URLs, buttons, exc...) per col. 1 (lines 56-60) and col. 2 (lines 2-4) and per figures 7-9, Abstract, col. 1 (lines 56-60), col. 2 (lines 2-4), and col. 7 (line 36-et seq.), once the user has entered the required data using the Web Page of figure 8 and 9, the appropriate sequence of instructions were generated to test the web server as indicated in figure 7 and col. 8 (line 41-et seq.). That is, the formatted information of figures 8 and 9 was implemented by a user who entered the required data into sections each from a set of available alternates, and along with such entered data into the formatted information was the test guide file, a test configuration file was automatically generated and issued to the Web server(s) under test, including its storage data mediums (data source) per the Abstract. In other words, the data entered into figure 8 and/or 9 along with the test guide file a test configuration file (as used by the virtual browsers) was automatically generated to the extent claimed.

10. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The

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examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew T. Caldwell, can be reached on (571) 272-3868 . The fax phone number for all papers is (703) 872-9306.

14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142